

MINUTES

**MONTANA SENATE
58th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON BUSINESS AND LABOR

Call to Order: By **CHAIRMAN DALE MAHLUM**, on March 14, 2003 at 9 A.M., in Room 422 Capitol.

ROLL CALL

Members Present:

Sen. Dale Mahlum, Chairman (R)
Sen. Mike Sprague, Vice Chairman (R)
Sen. Sherm Anderson (R)
Sen. Vicki Cocchiarella (D)
Sen. Kelly Gebhardt (R)
Sen. Ken (Kim) Hansen (D)
Sen. Sam Kitzenberg (R)
Sen. Glenn Roush (D)
Sen. Don Ryan (D)
Sen. Carolyn Squires (D)

Members Excused: Sen. Bob Keenan (R)
Sen. Fred Thomas (R)

Members Absent: None.

Staff Present: Sherrie Handel, Committee Secretary
Eddy McClure, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: HB 159, 1/23/2003; HB 179,
1/17/2003; HB 172, 1/17/2003

Executive Action:

{Tape: 1; Side: A}

HEARING ON HB 159

Sponsor: REPRESENTATIVE DICK HAINES

Proponents: Terry Krantz, Department of Public Health & Human
Services
Linda Stoll, Montana Health Officers' Association

Opponents: NONE

Informational Witnesses: NONE

Opening Statement by Sponsor:

REPRESENTATIVE DICK HAINES, HD 63, Missoula, opened HB 159 and said this bill regulates wholesale food establishments and separates regulation on wholesale and retail establishments. He said section 1-24 is new law and deals with the wholesale portion and separates it out. He said it also recognizes wholesale food salvagers, as currently they are unregulated. He said it also regulates wholesale and retail non-prescription drugs. He stated there were some amendments, page 6, under new section 13, line 22, which would be changed to each license.

Proponents' Testimony:

Terry Krantz, Department of Public Health & Human Services, rose in support of HB 159. EXHIBIT(bus54a01)

Linda Stoll, Montana Health Officers' Association, said they support the bill and the amendments for HB 159.

Questions from Committee Members and Responses:

No questions were posed on this bill.

Closing by Sponsor:

REP. HAINES closed on HB 159.

{Tape: 1; Side: A; Counter: 8.7}

HEARING ON HB 179

Sponsor: REPRESENTATIVE GARY MATTHEWS

Proponents: Jill Gerdrum, State Auditor's Office
Dick Brown, Association of Montana Healthcare Providers
Ray Kuntz, Watkins-Shepard Trucking Company
Amy Minto, Director, Big Sky Captive Management
Brad Dantic, General Counsel, ALPS Corporation
Roger McGlenn, Independent Insurance Agents Association of Montana
Frank Cote, ALPS Corporation

Opponents: NONE

Informational Witnesses: NONE

Opening Statement by Sponsor:

REPRESENTATIVE GARY MATTHEWS, HD 4, Miles City, opened on HB 179 explaining last session legislation passed which allowed for the creation of captive insurance companies in Montana. He said twenty-two states currently allow captive insurance. In the state of Montana there are presently five captive insurance companies and two captive insurance management firms. This bill will improve captive insurance law. He briefly explained new Sections 1 through 4. New section 5 allows for excess workers' compensation insurance. He believes Section 6 is the most important aspect of the bill because there is presently a Montana Health Care Network with seventeen facilities in eastern Montana that need to become a captive insurance company. He said these health care facilities would be able to take advantage of their non-profit health care status.

Proponents' Testimony:

Jill Gerdrum, State Auditor's Office, rose in support of HB 179, see **EXHIBIT** (bus54a02).

Dick Brown, Association of Montana Healthcare Providers, submitted written testimony **EXHIBIT** (bus54a03).

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Ray Kuntz, Watkins-Shepard Trucking Company, said their insurance

for trucking increased from \$1 million to \$3.5million in six months. By becoming a captive insurance company they were able to save about \$700,000. **Mr. Kuntz** stated workers' compensation language is very important as they have more problems with workers' compensation excess coverage than they do with liability. The company has approximately \$400,000 in loss reserves for workers' compensation; they are required to have \$1.2 million set aside for that insurance and that minimum is increasing. He stated these requirements force all business capital into insurance.

Amy Minto, Director, Big Sky Captive Management, said their business is to help clients form and manage captive insurance to help insure their risks. She said in 2001 they successfully created three captive insurance companies for their clients. She said there are some amendments being proposed and she discussed them briefly. She said the amendments would expand the lines of business the captive insurance company can write to include life insurance, disability, and health insurance in addition to workers' compensation. She said it allows captives to start pursuing the area of employee benefits. She said captive insurance companies would be able to write employee benefits and create branch captives. She felt workers' compensation was very important and would create a competitive advantage for Montana. She said this would attract more business to Montana with competitive wages.

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Brad Dantic, General Counsel, ALPS Corp., provided the Committee with documentation from a website about Captive Insurance in Vermont **EXHIBIT (bus54a04)**. He said Vermont leads the nation in captives and legislation in this area. He would like Montana to become as progressive and as favorable to business as Vermont. He said the amendments would allow for branch captives and the provision of employee benefits.

Roger McGlenn, Independent Insurance Agents Association of Montana, said this bill is an appropriate expansion of existing law. He said this is a necessary and alternative tool for commercial business in Montana.

Frank Cote, General Counsel, ALPS Corporation, felt this was true and proven economic legislation.

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Questions from Committee Members and Responses:

SENATOR KELLY GEBHARDT asked how much is charged for these services. **Ms. Gerdrum** said fees are paid in a couple of ways. There is an application fee of \$200, and an employer is required to pay a premium tax. The premium tax is less than that paid by traditional insurers. Traditional insurers pay two and three-quarters percent (2.75%), captives pay less than one percent (1%) with a minimum of \$5000 regardless.

SENATOR SAM KITZENBERG, referring to offshore businesses, asked if they are governed by any regulation and about their financial stability. **Ms. Gerdrum** replied "offshore" means outside of the United States, and regulatory structures are different than what is allowed here. She also explained this bill allows for the creation of branch captives. If a captive was formed in Bermuda that desired to located a branch in Montana, that branch would have to follow state regulations.

SENATOR VICKI COCCHIARELLA asked about the economic picture in Montana from this legislation. **Mr. Dantic** said they do have some potential for expanding captive insurance and bringing additional companies to Montana. He said he does not believe Montana's captive insurance will grow a quickly as was the case in Vermont.

SEN. KITZENBERG asked what is the source of money for offshore insurance companies. **Mr. Dantic** said if a branch captive comes into the State of Montana, the amendments address capital and surplus requirements and also what types of capital the department will accept.

SEN. COCCHIARELLA asked what kind of economic growth might this bring to Montana. **Ms. Minto** felt Montana and Vermont share a lot of economic and cultural similarities. She said Vermont was able to build an industry because of captive insurance and she felt Montana should be able to do the same. **SEN. COCCHIARELLA**, for the benefit of the Committee and others, requested **Ms. Minto** provide a definition for "captive." **Ms. Minto** said a captive is a formalized mechanism for self-insurance or a group of companies with self-insurance. She said there are benefits especially in the tax area. **SEN. COCCHIARELLA** asked for the perfect ground example of a captive. **Ms. Minto** used the example of two Montana trucking companies that formed a captive and were able to pay their premiums into the captive. She said the loss ratios have been reasonable, and at the end of the year those losses not paid out will stay in the captive as an underwriting premium. She said the direct benefit is they have a share in a captive insurance company which holds their underwriting income, any investment income, and their capital. She said with proper money management they would be able to expand their risk. She said

right now they reinsure everything past \$500,000 of coverage. She said in the future it might be higher. She said originally this Montana trucking company was suffering because of their insurance premiums, but now they are able to get reduced rates, and so forth, into the captive.

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SEN. COCCHIARELLA asked when the Oregon Company joined with this captive were they able to bring premium taxes into the state that they would not have had otherwise. **Ms. Minto** said premium taxes on captives are for all business captive rights regardless of where the risk is located. She said a Montana Captive Insurance Company would pay their premium tax on all business they write. She said a risk retention group would have to pay a premium tax subject to the "Liability Risk Retention Act."

Closing by Sponsor:

REP. GARY MATTHEWS said Section 9 of the bill explains capital requirements in Montana. He reiterated the are presently twenty-two states which allow captive insurance and there is a lot of opportunity for growth.

HEARING ON HB 172

Sponsor: REPRESENTATIVE DAVE GALLIK

Proponents: Cathy Muri, Montana Department of Administration

Opponents: NONE

Informational Witnesses: NONE

Opening Statement by Sponsor:

REPRESENTATIVE DAVE GALLIK, HD 52, Helena, said this bill validates bonds the state has already issued.

Proponents' Testimony:

Cathy Muri, MT Department of Administration, rose in favor of **HB 172; see, EXHIBIT (4).**

Questions from Committee Members and Responses:

No questions were posed by the Committee on this bill.

Closing by Sponsor:

REP. GALLIK closed the bill without further comment.

EXECUTIVE ACTION HB 172

Motion/Vote: SEN. DON RYAN moved HB 172 Do Concur. Motion carried unanimously 7-0.

ADJOURNMENT

Adjournment: 10 A.M.

SEN. DALE MAHLUM, Chairman

SHERRIE HANDEL, Secretary

DM/SH

EXHIBIT (bus54aad)